

216759



May 13, 2009  
Via Overnight Service

2009-197-C

2600 Maitland Center Pkwy.  
Suite 300  
Maitland, FL 32751  
P.O. Drawer 200  
Winter Park, FL  
32790-0200  
Tel: 407-740-8575  
Fax: 407-740-0613  
www.tminc.com

Mr. Charles L.A. Terreni, Chief Clerk  
South Carolina Public Service Commission  
Synergy Business Park  
Saluda Building  
101 Executive Center Drive, Suite 100  
Columbia, SC 29210

**RE: Petition for Authority to Transfer Assets  
Birch Telecom of the South, Inc. d/b/a Birch Communications and IDS Telecom  
Corp. and Now Communications, Inc.**

RECEIVED  
MAY 14 2009  
PSC SC  
DOCKETING DEPT.

Dear Mr. Terreni:

Attached please find the original and two (2) copies of the Petition for Authority to Transfer Assets submitted on behalf of Birch Telecom of the South, Inc. d/b/a Birch Communications ("Birch") in connection with a partial customer base transfer from IDS Telcom Corp. and Now Communications, Inc. ("IDS" and "NOW") to Birch. The Parties hereby notify the Commission of their entry into an agreement whereby Birch will acquire IDS and NOW's residential and business local and long distance customers in South Carolina.

Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, stamped envelope provided for that purpose.

Any questions you may have regarding this filing may be directed to my attention at (407) 740-3006 or via e-mail at croesel@tminc.com.

Sincerely,

  
Carey Roessel  
Consultant to Birch Telecom of the South, Inc.  
d/b/a Birch Communications

RECEIVED  
MAY 14 2009  
PSC SC  
DOCKETING DEPT.

Enclosures  
CR/gs

cc: Sharyl Fowler - Birch  
cc: Mr. Randall P. Muench - Cleartel, NOW, IDS  
cc: Mr. C. Dukes Scott, Executive Director, SC PSC  
file: Birch - SC Local  
tms: SCx0901

**BEFORE THE  
STATE OF SOUTH CAROLINA  
PUBLIC SERVICE COMMISSION**

Joint Application of )  
**Birch Telecom of the South, Inc. d/b/a** )  
**Birch Communications and** )  
**IDS Telecom Corp. and** )  
**Now Communications, Inc.** )  
for Authority to Transfer Assets )

Docket No. 2009-197.C

**APPLICATION FOR AUTHORITY TO TRANSFER ASSETS**

IDS Telecom Corp. ("IDS"), Now Communications, Inc. ("NOW"), both wholly owned subsidiaries of Cleartel Communications, Inc. ("CCI") (CCI, IDS, and NOW collectively, "Sellers") and Birch Telecom of the South, Inc. d/b/a Birch Communications ("Birch"), a wholly owned subsidiary of Birch Communications, Inc. ("BCI") (Birch or BCI, "Purchaser") (IDS, NOW and BTI collectively, the "Applicants"), pursuant to SC Code §58-9-310, hereby respectfully request the South Carolina Public Service Commission ("Commission") to approve the transfer of certain customers and related assets from Sellers to Purchaser. The Sellers and Purchaser entered into an Asset Purchase Agreement ("Agreement") on April 29, 2009, whereby the Purchaser will obtain certain assets of the Sellers including the Sellers' residential and business local exchange and long distance customers as well Sellers' prepaid local exchange customers. In support of this Application, Applicants provide the following information:

**I. IDENTIFICATION OF APPLICANTS**

The full legal name, address, telephone number and facsimile number of Applicants are:

**Birch Telecom of the South, Inc. d/b/a Birch Communications**  
4885 Riverside Drive, Ste 304  
Macon, GA 31210  
Telephone: 478-475-9800  
Facsimile: 478-475-9988

- and -

**IDS Telecom Corp.**  
**Now Communications, Inc**  
2855 S. Congress Ave  
Delray Beach, Florida 33445  
Telephone: 202-373-6000  
Facsimile: 202- 373-6001

## **II. DESCRIPTION OF THE APPLICANTS**

**Birch Telecom of the South, Inc. d/b/a Birch Communications** ("Birch") is a wholly owned subsidiary of Birch Communications, Inc. ("BCI"). BCI is a Georgia corporation with principal corporate offices located at 4885 Riverside Drive, Suite 304, Macon, Georgia 31210. BCI is one of the largest competitive local exchange carriers in the Northeast, Southeast, Southwest and Midwest regions serving residential and business customers. Birch deploys its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to residential and business customers. BCI and/or its subsidiaries are authorized to provide telecommunications services in thirty (30) states: Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming with certification pending in California and New Jersey. BCI is also authorized to provide interstate and international telecommunications services. Birch was granted authority to provide resold local exchange and long distance services in South Carolina by order issued September 25, 2000 in Docket No. 2000-0265-C.

**IDS** and **NOW** are each Delaware corporations. IDS and NOW are wholly owned subsidiaries of Cleartel Communications, Inc., a Delaware corporation and leading provider of voice and data solutions serving customers in the Northeast, Southeast, Southwest, and Midwestern United States. Sellers have principal offices at 2855 S. Congress Ave., Delray Beach, Florida 33445. CCI, through Sellers and its other subsidiaries, offer local, Internet and long distance services to both residential and business users in 30 states. In South Carolina, IDS and NOW hold the following authorizations:

IDS holds local exchange and interexchange authority granted in Docket No. 2005-26-C.

NOW holds local exchange and interexchange authority granted in Docket No. 2003-193-C.

Upon completion of the Transaction and the migration of customers to Birch, IDS and NOW will no longer offer telecommunications services in South Carolina. After Sellers determine that they no longer need their authorizations for operational or billing purposes, IDS and NOW will surrender their authorizations in a separate filing.

### **III. CONTACT INFORMATION**

Correspondence or communications pertaining to this application should be directed to:

For Purchaser

Carey Roesel, Consultant  
Technologies Management, Inc.  
2600 Maitland Center Parkway, Ste 300  
Maitland, FL 37251  
croesel@tminc.com

- With a copy to:

Sharyl D. Fowler  
Manager, Legal & Regulatory  
Birch Communications, Inc.  
4885 Riverside Drive, Suite 304  
Macon, Georgia 31210  
Tel: 478-476-1165  
Fax: 478405-3112  
sharyl.fowler@birch.com

For Sellers:

Catherine Wang  
Brett P. Ferenchak  
Bingham McCutchen LLP  
2020 K Street, NW  
Washington, DC 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001  
catherine.wang@bingham.com  
brett.ferenchak@bingham.com

#### **IV. DESCRIPTION OF TRANSACTION**

Under the terms of the Agreement, in exchange for consideration, Birch will acquire from the Sellers approximately 22 presubscribed residential customers, 283 presubscribed business customers and 192 prepaid local customers (the "Customers") and the customer related data, databases, and customer records needed to support the provision of local and interexchange telecommunications services to the Sellers' subscribers. The Sellers will continue to provide telecommunications services to all Customers affected by this transaction pursuant to the Sellers' existing tariff until the Application is granted by the Commission and the migration of Customers to Birch has been completed.

Upon the grant of the Application and satisfaction of any other conditions to closing, Birch will assume all managerial, technical and financial responsibilities in connection with the operation of the retail services to be provided to the affected IDS and NOW Customers in South Carolina. Upon approval, Birch will revise its tariffs to incorporate the rates, terms and conditions of services currently provided to the Sellers' customers. Grant of this application will afford an expeditious, transparent and cost effective transition, and will enable Birch and the Sellers to remain fully compliant with their regulatory obligations. Virtually all of Sellers' customers affected by this transaction will continue to receive the same services from Birch under the current rates, terms and conditions as they currently enjoy. There may be instances, however, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition customers in as neutral a manner as is reasonably possible, with no increase to the regular monthly recurring charges, and will notify those customers of their new rates, terms and conditions of service. As a result, the proposed transaction will be almost transparent to most customers in terms of the rates and terms and conditions of service that these customers currently receive. This transaction will be made at no charge to customers as they transition to Birch as their presubscribed carrier. The transaction will be handled so as to avoid undue disruption to consumers. There will be only a minor change of the voicemail service, which must be reset, and, except as described above, no change, interruption or diminution of local or long distance service. Customers will be well informed of their choices.

Written notice of the proposed asset transfer will be provided to the Sellers customers via First Class United States mail on or after June 1 2009 pursuant to Section 64.1120(e), Verification of Orders for Telecommunications Services, as amended, of Federal Communications Commission ("FCC") rules<sup>1</sup>. Samples of the Customer Notifications have been attached hereto as Attachment 1. Although Applicants have attempted to include in the notice letter all relevant state and federal customer notification requirements, the Sellers and Birch respectfully request, to the extent necessary, that the Commission grant a waiver of any applicable anti-slamming regulations that may possibly be violated by the transfer being made without specific authorization from each affected customer.

Applicants seek Commission authority for Birch to acquire and for the Sellers to sell and transfer certain state assets to Birch, in accordance with the terms of the Agreement. The transaction for which authority is sought is exclusively an acquisition of assets and does not involve a merger or consolidation, nor does the transaction require financing. Applicants state that the proposed asset acquisition is intended exclusively to enable Birch to provide telecommunications services to certain subscribers of the Sellers as described above.

## **V. CUSTOMER IMPACT**

This transaction will be handled so as to avoid undue disruption to consumers. There will be only a minor change of the voicemail service and, except as described above, no change, interruption or diminution of local or long distance service. Customers will be well informed of their choices.

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<sup>1</sup> 47 C.F.R. §64.1120(e). *In the Matter of 2000 Biennial Review - Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket Nos 00-257, 94-129, *First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129*, FCC 01-156 (rel. May 15, 2001).

## **VI. PUBLIC INTEREST CONSIDERATIONS**

The proposed transaction will ensure that the Customers enjoy continuity of high-quality telecommunications service. As discussed above, Customers will be given prior written notice of the transfer of their account to Birch, in compliance with the FCC's customer notice rules. Following the transaction, the Customers will continue to receive services which will be consistent with the quality of services currently provided by Sellers and which will be supported by Birch's experienced and well-qualified management team.

As a result, the proposed transaction will be almost transparent to most customers in terms of the rates and terms and conditions of service that these customers currently receive. Consequently, granting this Application is consistent with the public interest in promoting competition among telecommunications carriers in South Carolina.

## **VIII. CONCLUSION**

**WHEREFORE**, Applicants respectfully request the Commission to issue an order approving the transfer of certain telecommunications service assets of IDS Telecom Corp. and Now Communications, Inc., specifically a portion of Sellers' customer base, to Birch Telecom of the South, Inc. d/b/a Birch Communications on an expedited basis, and to the extent required, grant a waiver of any applicable anti-slamming regulations.

Respectfully submitted,

  
Carey Roesel

Consultant to Birch Telecom of the South, Inc. d/b/a  
Birch Communications, Inc.  
2600 Maitland Center Parkway, Suite 300  
Maitland, FL 37251

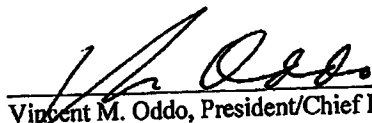
Telephone: (407) 740-3006  
Facsimile: (407) 740-0613  
E-mail: croesel@tminc.com

Dated: May 13, 2009

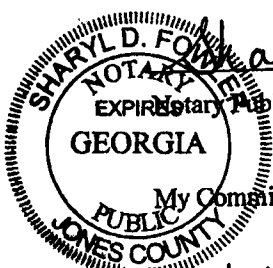

VERIFICATION

STATE OF GEORGIA  
COUNTY OF BIBB

I, Vincent M. Oddo, being first duly sworn, do hereby certify, depose and state that I am President/Chief Executive Officer for Birch Telecom of the South, Inc. d/b/a Birch Communications, a wholly owned subsidiary of Birch Communications, Inc. ("Birch") and that I am authorized to make this verification on behalf of Birch; that the foregoing filing ~~was~~ prepared under my supervision and direction; and that the contents with respect to Birch is true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Vincent M. Oddo, President/Chief Executive Officer  
Birch Telecom of the South, Inc.  
d/b/a Birch Communications

Sworn to and subscribed before me this 12<sup>th</sup> day of May, 2009.

  
  
\_\_\_\_\_  
My Commission expires:  
12/4/2012



**VERIFICATION**

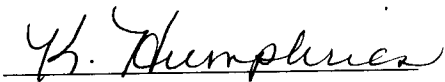
STATE OF FLORIDA  
COUNTY OF PALM BEACH

I, Keith Parsons, being first duly sworn, do hereby certify, depose and state that I am Vice President of Cleartel Communications, Inc., Cleartel Telecommunications, Inc., IDS Telcom Corp., and Now Communications, Inc. (collectively, "Cleartel"); that I am authorized to make this verification on behalf of Cleartel; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to Cleartel are true and correct to the best of my knowledge, information and belief.



Keith Parsons  
Vice President  
Cleartel Communications, Inc.  
Cleartel Telecommunications, Inc.  
IDS Telcom Corp.  
Now Communications, Inc.

Sworn to and subscribed before me this 11 day of May, 2009.



Notary Public

My Commission expires:

3-17-2012

**K. HUMPHRIES**  
Notary Public, State of Florida  
My Comm. Expires March 17, 2012  
ID# DD769624

**Application of  
Birch Telecom of the South, Inc.  
d/b/a Birch Communications  
&  
IDS Telecom Corp.  
Now Communications, Inc.**

Attachment 1

Sample Customer Notifications



May 8, 2009  
*Via Overnight Delivery*

Ms. Marlene H. Dortch, FCC Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, Maryland 20743

2600 Maitland Center Pkwy.

Suite 300

Maitland, FL 32751

P.O. Drawer 200

Winter Park, FL

32790-0200

Tel: 407-740-8575

Fax: 407-740-0613

www.tminc.com

Attention: Office of the Secretary

**RE: CC Docket No. 00-257**  
**Notification of Transfer of Certain Local and Long Distance Service Customers from Cleartel Telecommunications, Inc., IDS Telecom Corp., nii communications, ltd., NOW Communications, Inc., Supra Telecommunications and Information Systems, Inc., and Telecon Communications Corporation to Birch Telecom, Inc. d/b/a Birch Communications, a wholly owned subsidiary of Birch Communications, Inc.**

Dear Ms. Dortch:

Pursuant to CC Docket No. 00-257 and in accordance with Section 64.1120(e)(1) of the Commission's rules, the original and four copies of this notification is submitted on behalf of Birch Telecom, Inc. d/b/a Birch Communications, ("Birch") a wholly owned subsidiary of Birch Communications, Inc. who hereby notifies the Commission that it has entered into an Asset Purchase Agreement with Cleartel Communications, Inc., IDS Telecom Corp., nii subsidiaries, including Cleartel Telecommunications, Inc., IDS Telecom Corp., nii communications, ltd, NOW Communications, Inc., Supra Telecommunications and Information Systems, Inc., and Telecon Communications Corporation ("Cleartel"), whereby the Birch subsidiaries will generally acquire Cleartel's residential and business local and long distance, prepaid and payphone customers in twenty-two states, Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Wisconsin. Following the transaction, these customers will be served by the Birch operating company in each state. The transfer of the customer base will take place on or after July 1, 2009.

Birch hereby certifies that it has complied with the advance subscriber notification requirements set forth in Section 64.1120(e)(3) of the Commission's rules, with the obligations specified in that notice and with Commission requirements that apply to this streamlined process. Customer notice will be mailed to approximately 60,400 affected subscribers on or after June 1, 2009, each being sent thirty or more days in advance of the projected transfer date for their particular state. Sample copies of the notices are enclosed as Attachment A.

Please date stamp the receipt copy and return it in the self addressed, stamped envelope provided. Questions regarding this filing may be directed to the undersigned at (407) 740-3006 or via e-mail at croesel@tminc.com.

Sincerely,

Carey Roesel  
Technologies Management, Inc.

Enclosures

Cc: Brett Ferencsak, for Cleartel  
Sharyl D Fowler, Birch  
File: Birch - FCC

**BIRCH TELECOM, INC., d/b/a BIRCH COMMUNICATIONS**  
A Wholly Owned Subsidiary of  
**BIRCH COMMUNICATIONS, INC.**

**CLEARTEL TELECOMMUNICATIONS**

**Attachment A**

**Customer Notices**



DATE

Customers Name  
Customers Address  
City, State, Zipcode

### IMPORTANT NOTICE REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES

Dear \_\_\_\_\_

Birch Communications (Birch) and Cleartel Communications, Inc. (CCI) are pleased to announce that Birch will acquire the business, residential and payphone customers of CCI and its subsidiaries, including **[State-Specific Entities:]** Cleartel Telecommunications, Inc. (CTI), nii communications, ltd. (nii), Now Communications, Inc. (NOW), and Telecon Communications Corporation (Telecon). Subject to approval by the Federal Communications Commission and state regulators, Birch will replace CCI, CTI, nii, NOW, or Telecon (collectively, Cleartel) as your current telecommunications service provider on or after **[60 DAYS]** (the Transfer Date). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by Cleartel. Birch is excited about the opportunity to provide your phone service and looks forward to a long and successful business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and CCI has been structured so that the transfer of service will be an almost seamless transition with only a minor change to voicemail services. You will retain all service rates, features, terms and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your \_\_\_\_\_ or \_\_\_\_\_ bill. As in the past, you are responsible for paying all bills rendered to you by Cleartel during the transition of service.

You have the right to select a different carrier for the telecommunications service(s) at issue. If you do not wish to receive service from Birch, you should select and contact an alternate carrier directly to make arrangements to complete the transfer of your service to the alternate carrier before **[30 Days]**. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with Cleartel and you disconnect services or transfer to another carrier prior to the end of that term, you will be liable for early termination charges. If you select a local telephone provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed. Please note that if you are a customer of Cleartel on the Transfer Date, your account will automatically be transferred to Birch.

Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact the appropriate Cleartel entity at: **[STATE SPECIFIC ENTITIES]**

Cleartel & Telecon: 888-389-  
1400  
nii: 866-388-6500

NOW: 888-565-1011

Payphone Customers: 866-660-5994

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777** or **888-772-4724**. **(will be state specific)**

**About Birch Communications**

Headquartered in Atlanta GA, Birch Communications is one of the largest competitive local exchange carriers in its 31-state southeast, southwest, midwest and northeast regions serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small and medium business customers.

Cleartel thanks you for your business and Birch looks forward to continuing to provide you with quality service for many years to come.

Sincerely,

Cleartel Communications and  
Birch Communications



**Cleartel**  
COMMUNICATIONS

DATE

Customers Name  
Customers Address  
City, State, Zipcode

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Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and CCI has been structured so that the transfer of service will be an almost seamless transition with only a minor change to voicemail services. You will retain all service rates, features, terms and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunication service(s) with Birch**. You will receive your first billing statement from Birch starting with your \_\_\_\_\_ or \_\_\_\_\_ bill.

You do have the right to select a different carrier for the telecommunication service(s) at issue. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with Cleartel and you disconnect services or transfer to another carrier prior to the end of that term, you will be liable for early termination charges. Please note that if you are a customer of Cleartel on the Transfer Date, your account will automatically be transferred to Birch.

Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact the appropriate Cleartel entity at: **[STATE SPECIFIC ENTITIES]**

Cleartel: 888-389-1400	Supra: 800-412-1234	IDS: 888-389-1400
nii: 866-388-6500	NOW: 888-565-1011	Payphone Customers: 866-660-5994

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Cleartel thanks you for your business and Birch looks forward to continuing to provide you with quality service for many years to come.

Sincerely,

Cleartel Communications and  
Birch Communications





DATE

Customers Name  
Customers Address  
City, State, Zipcode

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Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

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Cleartel thanks you for your business and Birch looks forward to continuing to provide you with quality service for many years to come.

Sincerely,

Cleartel Communications and  
Birch Communications



DATE

Customers Name  
Customers Address  
City, State, Zipcode

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Dear \_\_\_\_\_

Birch Communications (Birch) and Cleartel Communications, Inc. (CCI) are pleased to announce that Birch will acquire the business, residential and payphone customers of CCI and its subsidiaries, including **[State-Specific Entities:]** Cleartel Telecommunications, Inc. (CTI), IDS Telcom Corp. (IDS), nii communications, Ltd. (nii), Now Communications, Inc. (NOW), Supra Telecommunications and Information Systems, Inc. (Supra), and Telecon Communications Corporation (Telecon). Subject to approval by the Federal Communications Commission and state regulators, Birch will replace CCI, CTI, IDS, nii, NOW, Supra, or Telecon (collectively, Cleartel) as your current telecommunications service provider on or after **[30-45 DAYS]** (the Transfer Date). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by Cleartel. Birch is excited about the opportunity to provide your phone service and looks forward to a long and successful business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and CCI has been structured so that the transfer of service will be an almost seamless transition with only a minor change to voicemail service. There may be instances, however, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition you in as neutral a manner as is reasonably possible with *no increase to your regular monthly recurring charges*. You will retain all other service rates, features, terms and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your \_\_\_\_\_ or \_\_\_\_\_ bill.

You do have the right to select a different carrier for the telecommunication service(s) at issue. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with Cleartel and you disconnect services or transfer to another carrier prior to the end of that term, you will be liable for early termination charges. Please note that if you are a customer of Cleartel on the Transfer Date, your account will automatically be transferred to Birch.

Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact the appropriate Cleartel entity at: **[STATE SPECIFIC ENTITIES]**

Cleartel: 888-389-1400	Supra: 800-412-1234	IDS: 888-389-1400
nii: 866-388-6500	NOW: 888-565-1011	Payphone Customers: 866-660-5994

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777** or **888-772-4724**. (will be state specific)

#### **About Birch Communications**

Headquartered in Atlanta GA, Birch Communications is one of the largest competitive local exchange carriers in its 31-state southeast, southwest, midwest and northeast regions serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small and medium business customers.

Cleartel thanks you for your business and Birch looks forward to continuing to provide you with quality service for many years to come.

Sincerely,

Cleartel Communications and  
Birch Communications

**Application of  
Birch Telecom of the South, Inc.  
d/b/a Birch Communications  
&  
IDS Telcom Corp.  
Now Communications, Inc.**

**Attachment 2**

Testimony of Vincent Oddo

**BEFORE THE  
STATE OF SOUTH CAROLINA  
PUBLIC SERVICE COMMISSION**

Joint Application of  
**Birch Telecom of the South, Inc. d/b/a**  
**Birch Communications** and  
**IDS Telecom Corp. and**  
**Now Communications, Inc.**  
For Transfer of Assets

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Docket No. \_\_\_\_\_

**BIRCH TELECOM OF THE SOUTH INC. D/B/A BIRCH COMMUNICATIONS  
AND  
IDS TELCOM CORP.  
NOW COMMUNICATIONS, INC.**

**DIRECT TESTIMONY OF VINCENT ODDO**

**Q. Please state your name, title and business address.**

**A.** My name is Vincent Oddo. I am President and Chief Executive Officer of Birch Telecom of the South, Inc. d/b/a Birch Communications, a wholly owned subsidiary of Birch Communications, Inc. My business address is 4885 Riverside Drive, Ste 304, Macon, GA 31210.

**Q. What authority is requested by the Joint Application?**

**A.** Applicants seek approval of the transfer of certain customers from IDS Telcom Corp. ("IDS") and Now Communications, Inc. ("NOW"), both wholly owned subsidiaries of Cleartel Communications, Inc. ("CCI") (IDS, NOW and CCI collectively, the "Sellers") to Birch Telecom of the South, Inc. d/b/a Birch Communications ("Birch"), a wholly owned subsidiary of Birch Communications, Inc. ("BCI") (Birch or BCI, "Purchaser") (IDS, NOW and Birch collectively, the "Applicants"), specifically the Sellers' residential, business and prepaid local and long distance customers. Applicants also request, to the extent required, that the Commission waive any applicable anti-slamming regulations. Because of the timing of the transaction and the proposed target date for the transfer of customers, we further request that the Commission grant the relief requested herein on an expedited basis.

**Q. Please describe Joint Applicant Birch's operations in South Carolina.**

**A.** Birch is a Georgia corporation authorized to provide local and long distance services in thirty states, including South Carolina. Collectively, Birch and/or its subsidiaries have been serving South Carolina customers for over eight years. Birch is the service provider of choice for over 1,000 communities in the Northeast, Southeast, Southwest and Midwest for voice and data services. Established in 1996, Birch is a profitable, privately held Competitive Local Exchange Carrier headquartered in Atlanta, GA serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to residential and business customers.

**Q. Please describe the proposed asset transfer transaction.**

**A.** CCI and certain of its subsidiaries, including IDS and NOW, and BCI entered into an Asset Purchase Agreement ("Agreement") on April 29, 2009, whereby Purchaser will obtain certain assets of IDS, NOW and CCI, specifically their residential, business, and prepaid local and long distance customers.

**Q. Is the proposed asset transfer in the public interest?**

**A.** Yes. This transaction is being made in a seamless fashion that will cause virtually no changes in customers' terms, conditions and rates for service other than possible instances, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition customers in as neutral a manner as is reasonably possible, with no increase to the regular monthly recurring charges and will notify those customers of their new rates, terms and conditions of service. There will be no interruption of service other than to the non-regulated voicemail service, which must be reset. Customers have been appropriately informed of their choices. In addition, the proposed transaction will ensure that the affected Customers enjoy continuity of high-quality telecommunications service. Upon completion of the Transaction and the migration of customers to Birch, Sellers will no longer offer telecommunications services in South Carolina. Consequently, granting this Application is consistent with the public interest in South Carolina.

**Q. Have the customers to be transferred been notified of this transaction?**

**A.** Yes. Written notice of the proposed asset transfer will be provided to IDS and NOW customers via First Class United States mail beginning in early June, 2009 pursuant to Section 64.1120(e), Verification of Orders for Telecommunications Services, as amended, of Federal Communications Commission rules. Samples of the Customer Notifications are included with the Application in Attachment 1. Applicants have included in the notification letters all relevant state and federal customer notification requirements pertaining to this transaction. To the extent necessary, it is also requested that the Commission grant a waiver of any applicable anti-slamming regulations

**Q. Why have the Joint Applicants requested expedited treatment of the application?**

**A.** Applicants request that the Commission process this Application on an expedited basis. Expedited treatment is warranted so that the Applicants may transfer the Sellers' residential, business and prepaid customers to Birch with a minimum of disruption and confusion. In order to manage the market withdrawal on a corporate-wide basis and to ensure that customer service is not impacted during this transition, it is important that the transfer of South Carolina customers take place on as uniform a schedule as possible throughout Birch's 30-state service territory. Expedited approval will allow the planned transfer to take place as originally contemplated in accordance with the notifications that customers have received, thereby avoiding customer uncertainty and permitting the Applicants to precede in as orderly and seamless a fashion as possible.

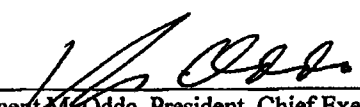
**Q. Does this conclude your testimony?**

**A.** Yes.



**VERIFICATION**

I, Vincent M. Oddo, first being duly sworn upon oath, depose and say that I am President and Chief Executive Officer of Birch Telecom of the South, Inc. d/b/a Birch Communications, that I have read the above and foregoing pre-filed testimony by me subscribed and know the contents thereof; that said contents are true in substance and in fact, except to those matters stated upon information and belief, and as to those, I believe same to be true.

  
\_\_\_\_\_  
Vincent M. Oddo, President, Chief Executive Officer  
Birch Telecom of the South, Inc.  
d/b/a Birch Communications

5/12/09  
\_\_\_\_\_  
Date:

STATE OF GEORGIA       )  
COUNTY OF BIBB       )

Subscribed and sworn before me this 12<sup>th</sup> day of May 2009.



  
\_\_\_\_\_  
My Commission expires on:

12/4/2012